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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/647,955	10/05/2000	Karl Freudelsperger	68626	7444

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EXAMINER

KRIZEK, JANICE LEE

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 06/25/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/647,955

Applicant(s)

Freyde/sparger et al.

Examiner

Janice Krizek

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— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4-7-2003
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-63 and 67-69 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34-63 and 67-69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 34-69 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation “an article-handling device that is movable...including a stack-of-articles support, to fix a stack of articles without a magazine, said stack-of-articles support can be positioned in an essentially vertical position with a correspondingly vertical stack of articles picked up in the support”, found in lines 9-13 of claim 34, is unclear with respect to how the article-handling device is moved.

The recitation “said upper individual article ejector having a stack-of-articles holding-up device pushing up the stack of articles, individually a topmost article of a pushed up, obliquely positioned stack of articles reaches a selected article shaft under the force of gravity or by said upper individual article ejector, being displaceable in a transverse direction of the stack”, found in lines 17-21 of claim 34, is ungrammatical and unclear with respect to the functions performed by the article ejector.

The recitation “a vertically adjustable guide for passing a lower individual article”, found in lines 2-3 of claim 35, is unclear with respect to the “passing”function performed by the guide.

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The recitation “a...clamping plate for elastically clamping a picked-up stack of articles in a transverse direction of the stack”, found in claim 36, is unclear with respect to how the stack of articles is clamped by the clamping plate.

The recitation “said stack-of-articles support...has a doubly sloped angle sheet iron”, found in claim 37, is unclear with respect to the construction of the support.

There is no antecedent basis for “the root of the angle” recited in line 4 of claim 37.

The recitation “an article-handling unit, which...removes articles...from an acceptance region, or from and to a supply bay”, found in claim 38, is unclear with respect to the functions performed by the article-handling unit.

The recitation “an adjustable...clamping plate,...is located in parallel to and opposite said stack-of-articles pick-up, presses...a stack of articles...in a transverse direction of the stack”, found in claim 39, is unclear with respect to the location of and function performed by the clamping plate.

The recitation “said...unit can be displaced via a guide or rail system...the stack of articles reaches an aligned article pick-up...by displacement...or conversely, the stack of articlesreaches the selected shaft”, found in claim 40, is unclear.

The recitation “a...plate, which has a shape of a part of at least one bay level of the supply bay”, found in claim 43, is unclear with respect to the form of the plate.

The recitation “said...plate is also displaceable, or rotatable around a vertical axis”, found in claim 44, is unclear with respect to how the plate is movable

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The recitation “a hand or foot switch is provided”, found in claim 45, is unclear with respect to the structures which comprise the claimed invention.

The recitation “wherein a stop of the article-handling unit is an adjustable longitudinal stack-of-articles pusher”, found in claim 56, is unclear.

The recitation “said stack-of-articles pick-up...at an acceptance region have the same designs in terms of length, width”, found in claim 57, is unclear.

The recitation “a slope in a longitudinal direction of a shaft...wherein said transverse rail is rigidly or telescopically fastened”, found in claim 58, is unclear.

There is no antecedent basis for “at least one adjustable second longitudinal stack-of-articles pusher of its own” recited in claim 59.

The recitation “articles can be conveyed...from a buffer or from the...pick-up...and loaded and removed; a separate, vertically adjustable article bay loading unit which is divided...and has,...a gripping unit or stack-of-articles support”, found in claim 59, is unclear.

The recitation “a buffer and/or a higher-level supply bay can be moved...and can take over or transfer stacks”, found in claim 63, is unclear.

The recitation “each of said plurality of article shafts being holdable of a plurality of the articles”, found in line 4 of claim 67, is unclear with respect to the function performed by the article shafts.

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The recitation "said loader being holdable of a stack of the articles in a substantially vertical position", found in lines 6-7 of claim 67, is unclear with respect to the function performed by the loader.

The recitation "an ejector movable in a transverse direction to the stack of articles", found in lines 9-10 of claim 67, is unclear with respect to the direction in which the ejector moves because the orientation and location of the stack of articles is not understood.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 34-63 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Neukam (EP 0 795 495).

5. Applicant's arguments filed April 7, 2003 have been fully considered but they are not persuasive.

Applicant states that the "claims have been amended to improve the style of this application". However, these amendments to the claims have failed to correct the numerous unclarity described in the rejection under 35 U.S.C 112, second paragraph, set forth in paragraph 3 above.

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6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Janice Krizek whose telephone number is (703) 308-2026. The examiner can normally be reached on Mondays through Fridays from 9:30 a.m. to 6:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis, can be reached at (703) 308-3248. The fax numbers for Technology Center 3600 are (703) 872-9326 (for responses before final rejection), (703) 872-9327 (for responses after final rejection) and (703) 872-9325 (for customer service).


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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Center receptionist whose telephone number is (703) 308-1113.

jlk
June 24, 2003

 6-24-03
Janice L. Krizek
Primary Examiner
Technology Center 3600